

CITY OF GARDNER'S 2010 LEGISLATIVE AGENDA

Federal Issues

The following is the City of Gardner's legislative agenda for 2010:

1. **Home Rule and Local Control** --The governing of public affairs should remain accessible to citizens. Preservation of constitutionally granted home rule authority as it exists today is essential to effective and responsible local self-government. Locally elected officials are in the best position to make decisions of community concern and are most accountable for those decisions. The City of Gardner opposes any federal legislation that would directly or indirectly limit the State constitutionally granted home rule authority given to cities. This includes:
 - a. Annexation -- allowing cities to grow is inherent to the ultimate success of communities across the nation. Gardner supports the currently established State of Kansas statute and opposes any further changes that limit the authority of cities to grow.
 - b. Eminent domain -- is a fundamental authority for municipalities. The authority to acquire property through condemnation proceedings is critical for public improvements as well as sound economic development policy. The City believes meaningful protections exist in current statutes safeguarding landowner's rights in such proceedings.
 - c. Unfunded Mandates --The imposition of mandates and programs on local governments without accompanying state or federal funding is contrary to the spirit of constitutional home rule. Any function or activity mandated by the state upon local governments should be fully and continuously funded by the state or federal entity making such programs required.
 - d. Employer-Employee Relations -- Gardner opposes legislation that would eliminate the local option provision in the Kansas Public Employer-Employee Relations Act. This act allows local units of government to determine whether or not unions can form in their organization. (*Joint with Johnson County*)
2. **Transportation Issues for the Logistics Hub KC**-- The 1,003 acre Logistics Hub KC is located south of 56 Hwy and north of 191st Street, primarily to the west of Waverly Road. The following are the necessary projects the City of Gardner continues to see as vital for reducing impact on its community and is seeking assistance from the State of Kansas as well as the United States Congress:
 - Kansas Department of Transportation (KDOT) has committed to construct a new interchange south of the Gardner Road exit along I-35 to service the Logistics Hub KC. At this time, no funding source has been identified by KDOT to meet this commitment.
 - Once the new interchange is complete, the City is seeking assistance from the State of Kansas on connecting 56 Hwy to the new interchange on I-35. This roadway will require two overpasses on Waverly Road, one over the BNSF mainline and another over the intermodal lead tracks. Additionally, no funding has been identified to build the road connecting the interchange to the facility.
 - Capacity improvements are needed at I-35 and 175th Street (Exit 210) to service expanding business at New Century Air Center. The City just recently approved 2 million square feet of warehousing just west of the interchange for the Midwest Commerce distribution facility. The developer has completed the 1.1 million square feet Coleman building that has been recently occupied. Additionally, the City has approved retail development on the east side of the interchange that will further accelerate the need for capacity at this interchange.
 - Additionally, capacity improvements are needed on I-35 south of the new Lone Elm

interchange to at least the Johnson County line. This includes adding a third lane.

- Gardner, along with Johnson County, is seeking assistance with the relocation of the weigh station south of the new Lone Elm interchange in Olathe, Kansas. The State of Kansas has indicated it would like to replace the existing weigh station with an inspection station, a more intense use. As of today, location does not have the necessary stacking capacity for its current volume and creates a safety hazard for the traveling public as well as commercial vehicles. With continued warehouse development in Southwest Johnson County and the anticipation of the construction of the BNSF intermodal facility, truck congestion at the current weigh station will be an increasing safety concern for motorists in this heavily used commuter corridor. The location of a new inspection facility should be not be considered within the urban interstate system but outside of the Mid America Regional Council planning area. Placement within this area will negatively impact traffic congestion along I-35 as well as utilize prime industrial and commercial properties in this region. Lastly, placement of any such facility should not be done in such a manner to divert truck traffic onto local roadways to avoid the new inspection station. Coordination with BNSF is recommended to find appropriate solutions to address the State of Kansas concerns related to containers, however, the relocation of this facility should not be done at the expense of safety to motorists and in ways that inhibit economic development of prime lands.

(Joint with Johnson County)

3. **Continue Federal Funding Transportation Initiatives** -- The federal transportation authorization, SAFETEA-LU, expired on September 30th, 2009. The City of Gardner urges Congress to continue to work on the reauthorization of SAFETEA-LU and to authorize full annual appropriations for the new plan. The nation's transportation system is critical to our success at all levels from business to personal needs. Continued investment in the transportation systems and services must be a top priority to ensure progress as a nation. Reduced transportation spending impedes economic growth, slows the movements of freight and individuals, increases disaster response times, and places enormous strains on local government resources.

The City of Gardner is in support of the Mid-America Regional Council (MARC)'s 2009 Federal Transportation Program that lists the following seven legislative goals for the next authorization:

- a) Establish a clear direction for the nation's transportation investments
- b) Establish a performance-driven investment strategy
- c) Design programs to ensure progress in all parts of the country and across all components of the transportation system
- d) Provide adequate flexibility to achieve both national and regional priorities
- e) Improve federal funding program delivery mechanisms
- f) Foster effective collaboration in decision-making
- g) Broaden the transportation funding base and funding amount

In addition, the City of Gardner strongly supports the direct allocation of funds to localities that are consistent with regional goals and can be used on projects that are timely and provide a tangible and vital benefit to the communities in which they are constructed, such as funding for needs related to the KC Logistics Hub.

4. **I-35 Fixed Guideway Project and requested funding of \$39,350,400** --Gardner also supports Johnson County Transit request for funding to deploy expanded Premium Express Bus Service along approximately 26 miles of the I-35 Corridor between central Johnson County, Kansas, and downtown Kansas City, Missouri (terminus points: 159th Street in Johnson County, into downtown Kansas City, Missouri at approximately 10th & Main Street). As part of the recent I-35 Fixed Guideway Alternatives Analysis study, expanded commuter express bus service in the corridor was identified as a cost effective approach that is expected to help reduce congestion and increase mobility options for residents traveling I-35.

This proposed alternative for the I-35 Corridor has several distinct routes servicing different areas of the I-35 Corridor. Each route consists of a transit route with one or more park and ride lots, priority measures such as signal priority, and an express portion on I-35. The express portion of the route will require only limited priority measures, at least in the near term. A bus-on-shoulder operating technique has been identified as an effective means of giving buses an option to by-pass slower moving traffic during peak hours with a minimal capital investment. Bus-on-shoulder applications have proven very successful in the Minneapolis-St. Paul metropolitan area.

(Joint with Johnson County)

5. **Bus Replacement** --Gardner supports the \$4,000,000 request by Johnson County Transit for replacement of 21 coaches (30, 35 and 40 foot coaches) that will reach their useful life expectancy by 2011. Johnson County will match \$1,000,000 and provide 13 replacement buses for commuter express transit service. These funds are being requested from the Federal Transit Administration Bus and Bus Facility Grant Program.
(Joint with Johnson County)
6. **Bus Expansion** – Gardner supports \$5,440,000 to purchase expansion buses to begin implementation of the Johnson County Transit Strategic Plan and to accommodate growing demand and ridership. The \$5,440,000 along with Johnson County's match of \$1,360,000 will result in a total capital investment of \$6,800,000 for Johnson County Transit. These funds are being requested from the Federal Transit Administration Bus and Bus Facility Grant Program. *(Joint with Johnson County)*
7. **Collection of Sales Tax on Remote Sales** – Gardner supports federal legislation that would treat retail sales the same for the purposes of state and local sales taxation, regardless of whether the sale is conducted in person or by telephone, Internet, mail, facsimile, or other electronic means, and that remits electronic sales tax revenues to the taxing jurisdiction in which the sales originated. *(Joint with Johnson County)*
8. **Taxation Rules on Vehicles and Electronic Devices** --Gardner supports an amendment to the Internal Revenue Code that would exempt the use of vehicles and electronic communications equipment and services by employees from being considered taxable fringe benefits. Inclusion of the value of the use, personal or business, of such devices, used in the performance of governmental services, impairs the ability of government agencies to cost-effectively manage resources through usage of pooled cost plans and provision of information technologies that enhance employee productivity. Gardner supports the President's proposal to repeal the tax law(s) in the 2011 Federal Budget regarding taxation of cellular phones. *(Joint with Johnson County)*
9. **Tax Increase Prevention and Reconciliation Act (TIPRA)** --Under the 2006 Tax Increase Prevention and Reconciliation Act, Congress created section 3402(t) of the Internal Revenue Code, requiring governments spending more than \$100 million annually on goods and services to withhold 3% of the payments made to vendors and contractors and remit this amount to the federal government. Irrespective of the one-year delay of this legislation approved in the American Recovery and Reinvestment Act through December 31, 2011, Gardner supports Johnson County's request to repeal section 3402(t). Gardner opposes this unfunded federal mandate primarily based on the excessive administrative burden and accompanying costs associated with implementing this mandate, which get passed onto Gardner's tax payers. *(Joint with Johnson County)*
10. **Management of Public Right-of-Way**— The management of public rights-of-way is a fiduciary responsibility of local government. Gardner vigorously oppose restrictions which may be placed on local governments restricting the management of public rights-of-way or limiting our ability to recover public costs incurred when such property is necessarily used by regulated and non-regulated utilities or service providers. The City of Gardner recognizes

that the last decade has brought major changes to telecommunications services. As these changes are made the essential role, responsibilities, and the rights of local governments must be maintained. Changes to state and federal telecommunications laws should reaffirm local jurisdictions' authority to manage their public rights-of-way, allow local jurisdictions to set fair compensation for use of the rights-of-way, and allow local governments to provide to its citizens essential services at fair and competitive costs. Additionally, similar types of services that are provided via cable lines or phone lines should be treated in the same way with respect to the public rights-of-way and franchise fees.

11. **Franchise Authority** - Gardner opposes any legislation that restricts the current franchise authority for cities.
12. **Funding for Local Agencies to Prevent and Respond to Acts of Terrorism**—Local government public safety personnel are the first to respond to acts of terrorism and are often at the forefront of preventing acts of terrorism. Available funds should be used and distributed in a manner that provides local governments maximum resources and flexibility to prevent and combat terrorism, especially monies for training and overtime purposes. The City of Gardner supports legislation that provides adequate funding to prevent and respond to acts of terrorism. *(Joint with Johnson County)*
13. **Emergency Management Performance Grant Program** –Gardner supports Johnson County's request to the expanded funding of the Emergency Management Performance Grant Program. The program should be maintained as a separate all-hazard program focused on capacity building for all-hazards preparedness, response, recovery and mitigation at the state and local levels. The program should have processes put into place to ensure equitable distribution between state governments and county governments as the EMPG program is meant to support emergency management programs on the local level. *(Joint with Johnson County)*
14. **Byrne-Justice Assistance Block Grant** --The Byrne-Justice Assistance Block Grant has been a valuable source of funding for criminal justice programs for state and local jurisdictions. The Byrne Grants assisted Gardner in 2010 with the purchase new radios through the receipt of a grant for \$35,250. The President's budget proposal maintains Byrne-Grant funding close to its previous year's level (\$512 million in formula grants and \$30 million for competitive grants). Johnson County relies heavily on these grants to run several of its programs related to recidivism reduction. *(Joint with Johnson County)*
15. **Funding for Community Development Block Grant Program (CDBG)** – Gardner has used CDBG on an annual basis to improve its core neighborhoods by replacing streets, curbs and gutters and installing sidewalks and stormwater systems. These improvements have had a significant impact on neighborhoods, as homeowners have increased pride and have chosen to make private investments in their properties, even in what is considered low to moderate income areas. Availability of these dollars in the future for communities is critical to allow local governments with declining revenue basis to equitably apply dollars for infrastructure investment in all areas of the community.
16. **Funding for Congestion Mitigation/Air Quality (CMAQ)** –The City of Gardner supports continued CMAQ funding to help improve the region's air quality. Since the 2007 ozone season, ground level ozone concentrations in parts of the Kansas City Region exceeded the U.S Environmental Protection Agency's standards that will go into effect in 2011 of 75 ppb and in 2007 the region exceeded the current standard of 84 ppb on several occasions. The City of Gardner has established a first of its kind in the metro, anti-idling ordinance to help reduce the emissions in our community.

We are also working closely with Mid America Regional Council, Johnson County, City of Edgerton and State of Kansas on several projects related to the future BNSF Intermodal

Facility that would benefit directly from increased CMAQ funding, including several rail overpasses to reduce idling. The Kansas City Region has used this funding for a variety of projects that have had a significant impact on improving air quality, but much more work is still needed over the next decade. Gardner would benefit from these funds not only related to the intermodal, but additionally for better commuter alternatives to a variety of regional job centers. We strongly encourage continued and enhanced funding of this critical program to help reduce air pollution in our region. *(Joint with Johnson County)*

17. **Water and Wastewater Infrastructure Funding** – The City of Gardner supports increased federal funding to assist local communities with their water and wastewater infrastructure and associated security needs.

18. **21st Century Watershed Act** --Gardner supports the updating of the federal clean water act to give regulators and utilities the tools they need to adequately address the environmental concerns of today. Areas of special concern are wet weather events, nutrient removal and non-point source contributions. The updated act should address, at a minimum, good science, a watershed based approach, a cost-benefit analysis, and a funding assistance mechanism. *(Joint with Johnson County)*

19. **Environmental Protection and Energy Conservation** --Gardner supports federal efforts to (1) develop and implement cost effective, scientifically-based energy and environmental plans, including plans to address greenhouse gas emissions; (2) stimulate investment in energy conservation and alternative energy technology; (3) consider economic, social and natural resource impacts when making decisions; and (4) provide local governments flexibility and resources to meet the community's energy and environmental goals. *(Joint with Johnson County)*

20. **Support for Public Power** –Gardner strives to provide excellent service to its customers while maintaining rates comparable to those of the larger electric utilities around it. As such, Gardner encourages the State to provide support as it can to the public power providers of the State in the following ways:

- a. Work to facilitate, through the KCC and applying utilities, improved efficiency in planning, permitting and construction of new transmission facilities, as well as identification of transmission paths through the Southwest Power Pool (SPP). Adequate transmission facilities and path availability are critical to public power's access to affordable, reliable sources of power to maintain high levels of service and competitive rates to the ratepayers.
- b. Provide any available incentives to power providers to implement programs and initiative for energy efficiency, conservation, and Smart Grid technologies.
- c. Facilitate development of necessary and prudent generation facilities utilizing all solar, geothermal, etc – to ensure available and reliable power sources and choices for public power providers and customers.

21. **Medicaid Eligibility for Incarcerated Individuals** –Gardner supports Johnson County interest in federal policy that allows a Medicare or Medicaid eligible person, who has been charged with a crime and incarcerated, but not convicted, to continue to be eligible for Medicare or Medicaid medical benefits until such time as they may be convicted. *(Joint with Johnson County)*